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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/807,556

07/30/2001

Susanna M. Rybak

15280-3711US

9130

7590

08/20/2004

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EXAMINER

GEBREYESUS, KAGNEW H

ART UNIT

PAPER NUMBER

1652

DATE MAILED: 08/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/807,556

Applicant(s)

RYBAK ET AL.

Examiner

Kagnew H Gebreyesus

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 22 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-21 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

I – Claim(s) 1-14, drawn to an RNase A superfamily polypeptides selectively toxic to proliferating endothelial cells.

II – Claim(s) 15 – 18 are drawn to a method of selectively inhibiting the growth of a proliferating endothelial cell.

III – Claims 19(a), 20 are drawn to a method of treating a patient with the disease characterized by proliferating endothelial cells.

IV – Claim 21 is drawn to a method of manufacture of a pharmaceutical composition comprising an RNase A superfamily polypeptide and a pharmaceutically acceptable carrier.

1. The inventions listed as Groups I-IV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The technical feature linking group I-IV appears to be that they all relate to an Ribonuclease A (RNase A) polypeptide and N-terminal variants thereof and that these polypeptides are endowed with an anti-proliferative/cytotoxic activity towards specific neoplastic endothelial cells, Kaposi's sarcoma cell lines as well as normal endothelial cells and a method of treating

patients with the same. The polypeptide sequences claimed by the applicant as modified RNase A are well known in the art:

(a) Rosenberg H. et al (Proc. Natl. Acad. Sci. USA Vol. 86, pp. 4460-4464, 1989)
The eosinophil-derived neurotoxin (EDN) protein sequence deposited in GeneBank under accession number M24157 show identical sequence with claimed recombinant sequences starting from position -5 through the rest of the protein.

(b) Beintema JJ et. al., (Biochemistry 27, 4530-4538, 1988) describe human urinary ribonuclease that show identical sequences to the claimed sequences.

(c) In addition Sakakibara et. al. (Chem. Pharm. Bull. 1990, 39(1) 146-149) describe isolation, purification and N-terminal sequencing of a polypeptide from the urine extracts of pregnant women that has a nearly identical match to the N-terminal of the claimed RNase A polypeptide.

Furthermore, the potential ability of RNase A to inhibit Kaposi's sarcoma has been described by Griffiths et.al. ([letter]. Nature, Vol. 390: 568, 1997).

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

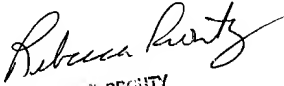
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kagnew H Gebreyesus whose telephone number is 571-272-2937. The examiner can normally be reached on 8:30am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Achutamurthy ponnathapura can be reached on 571-272-0928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


REBECCA E. PROUTY
PRIMARY EXAMINER
~~GROUP 1652~~
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